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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,920	08/10/2001	Christopher D. Ludwig	1017-015US01	5176

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EXAMINER	
DUNHAM, JASON B	

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/927,920	LUDWIG ET AL.	
	Examiner	Art Unit	
	Jason B. Dunham	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15,52-60,68-78 and 81-83* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15,52-60,68-78 and 81-83* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The drawings filed March 17, 2006 have been accepted. Claims 1-15,52-60,68-78 and 81-83 are pending in this application and claims 1,52,57,68, and 81 have been amended in the reply filed March 17, 2006.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4,7-15,52,54-56,58-60,68-78, and 81-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgenson (U.S. Patent Application Publication No. 2002/0095232) in view of Thorvaldsson (U.S. Patent Application Publication No. 2002/0004366).

Referring to claim 1. The combination of Jorgenson and Thorvaldsson discloses a method comprising:

- Receiving product movement information including a source location, a destination location, and a transportation device (Jorgenson: paragraph 35); and

- Generating, based on the product movement information, a report identifying commingled products of a similar type that have been stored together into a single lot (Thorvaldsson: abstract, paragraphs 64-65,73, and 75).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Jorgenson to have included generating, based on the product movement information, a report identifying commingled products of a similar type that have been stored together into a single lot, as taught by Thorvaldsson, in order to trace the processing history in order to verify status (Thorvaldsson: abstract).

Referring to claim 2. The combination of Jorgenson and Thorvaldsson further discloses a method wherein generating a report comprises determining a plurality of lots based on the product movement information (Jorgenson: paragraph 45).

Referring to claim 3. The combination of Jorgenson and Thorvaldsson further discloses a method wherein determining a plurality of lots comprises assigning a new lot identifier when the products are commingled at a location (Jorgenson: paragraph 76).

Referring to claim 4. The combination of Jorgenson and Thorvaldsson further discloses a method wherein the product movement information includes a designation of a farm, a field, and time harvested (Jorgenson: paragraph 44).

Referring to claim 7. The combination of Jorgenson and Thorvaldsson further discloses a method comprising:

- Presenting a contract interface to define contracts between producers and customers based on order established by the customers (Jorgenson: figure 4).

- Providing a contract module to monitor contract generation and prevent a contract from being generated that is in excess of the order (Jorgenson: paragraphs 48 & 75, figures 4 & 10).

Referring to claim 8. The combination of Jorgenson and Thorvaldsson further discloses a method comprising presenting an interface to define programs for tracking a given lot (Jorgenson: paragraph 7 & figure 4).

Referring to claim 9. The combination of Jorgenson and Thorvaldsson further discloses a method comprising presenting an interface for receiving program information to establish checklists for procedures for moving and storing the given lot (Jorgenson: paragraph 45).

Referring to claim 10. The combination of Jorgenson and Thorvaldsson further discloses a method comprising:

- Presenting an interface for receiving program information for establishing parameters for certifying actions taken in moving and storing the given lot (Jorgenson: paragraphs 41 & 61); and
- And receiving an indication that the actions have been certified (Jorgenson: paragraphs 41 & 61).

Referring to claim 11. The combination of Jorgenson and Thorvaldsson further discloses a method wherein the identification of the lot further comprises an indication of the character of the product (Jorgenson: paragraphs 42 & 84).

Referring to claim 12. The combination of Jorgenson and Thorvaldsson further discloses a method wherein the product is a grown commodity and the indication of the

character of the product includes the seed variety used to grow the commodity (Jorgenson: paragraph 31 & figure 19).

Referring to claim 13. The combination of Jorgenson and Thorvaldsson further discloses a method wherein the product is a grown commodity and the indication of the character of the product includes an indication of whether the commodity is bio-engineered (Jorgenson: paragraphs 35 & 47).

Referring to claim 14. The combination of Jorgenson and Thorvaldsson further discloses a method wherein the product is a grown commodity and the indication of the character of the product includes an indication of whether the commodity is conventionally grown (Jorgenson: paragraphs 35).

Referring to claim 15. The combination of Jorgenson and Thorvaldsson further discloses a method wherein the product is a grown commodity and the indication of the character of the product includes an indication of whether the commodity is organically grown (Jorgenson: paragraphs 35 & 47).

Referring to claim 52. Claim 52 is rejected under the same rationale set forth above. The combination of Jorgenson and Thorvaldsson further discloses a medium wherein the timing information includes a time stamp identifying when the lot is moved (Thorvaldsson: paragraph 23).

Referring to claim 54. The combination of Jorgenson and Thorvaldsson further discloses a computer readable medium wherein the timing information includes a time the lot moves in and a time the lot moves out (Jorgenson: figures 3-6).

Referring to claim 55. The combination of Jorgenson and Thorvaldsson further discloses a computer readable medium wherein the storage information includes an indication of whether the storage facility is clean and empty (Jorgenson: paragraphs 37,41, and 47).

Referring to claim 56. The combination of Jorgenson and Thorvaldsson further discloses a computer readable medium wherein the movement information includes an indication of whether the transportation device is clean and empty (Jorgenson: paragraphs 37,41, and 47).

Referring to claims 58-60. Claims 58-60 are rejected under the same rationale set forth above.

Referring to claims 68-74. Claims 68-74 are rejected under the same rationale set forth above. The combination of Jorgenson and Thorvaldsson discloses a system operating a web server (Jorgenson: paragraph 6) and electronically delivering certification documents (Jorgenson: paragraph 86).

Referring to claim 75. The combination of Jorgenson and Thorvaldsson further discloses a system comprising an audit, certification, and testing module configured to allow transporters of the lot to identify a specific transportation device, a time the lot enters the transportation device, a time the lot leaves the transportation device, and a clean and empty status of the transportation device (Jorgenson: paragraphs 41,47, 67 & figure 9).

Referring to claim 76. The combination of Jorgenson and Thorvaldsson further discloses a system that is in communication with a business entity and receives movement information from the business entity (Jorgenson: paragraph 45).

Referring to claims 77-78. Claims 77-78 are rejected under the same rationale set forth above.

Referring to claim 81. The combination of Jorgenson and Thorvaldsson further discloses a method comprising:

- Receiving product movement information including a location status and a time stamp, wherein the time stamp identifies when a product is moved (Thorvaldsson: abstract, paragraphs 64-65,73, and 75).
- Storing the product movement information in a database (Jorgenson: abstract, figure 1);
- Generating a report identifying each product location and any other products of a similar type commingled with the product (Thorvaldsson: abstract, paragraphs 64-65,73, and 75).

Referring to claim 82. Claim 82 is rejected under the same rationale set forth above.

Claims 5-6,53,57, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Jorgenson (U.S. Patent Application Publication No. 2002/0095232) and Thorvaldsson (U.S. Patent Application Publication No. 2002/0004366) in view of Shortridge (U.S. Patent Application Publication No. 2001/0011437).

Referring to claims 5-6,53,57, and 83. The combination of Jorgenson and Thorvaldsson discloses all of the above, but does not expressly disclose a method or computer-readable medium wherein a recall order is issued for all lots determined to have been commingled with a contaminated lot. Shortridge discloses a method and computer-readable medium for determining all lots that have been contaminated and tracing a lot's history thereby identifying any other lots that have been commingled with the given lot (Shortridge: paragraphs 29,43 and claim 1). The examiner notes that Shortridge discloses testing for contamination of lots that would inherently be recalled if they were found to be contaminated. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method and medium of Jorgenson/Thorvaldsson to have included means for determining all lots that have been contaminated and tracing a lot's history thereby identifying any other lots that have been commingled with the given lot, as taught by Shortridge, in order to preserve the identity of non-genetically modified seeds (Shortridge: abstract).

Response to Arguments

Applicant's arguments with respect to claims 1-4,7-15,52,54-56,58-60,68-78, and 81-82 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the combination of Jorgenson/Thorvaldsson in view of Shortridge does not disclose a mechanism for identifying commingled products. The examiner notes that Shortridge discloses a method of preserving the identity of non-genetically modified products. As noted in the rejection of claims 5-6,53,57, and 83

above, Shortridge performs testing to confirm that no contaminates have been mixed or commingled with the identified product.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD
Patent Examiner
10/02/06

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